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Planning Commission

February 24, 2020 – 7 pm
Council Chambers
Golden Valley City Hall
7800 Golden Valley Road

REGULAR MEETING MINUTES

1. Call to Order

The meeting was called to order at 7:00 by **Chair Blum**

Roll Call

Commissioners present:	Ron Blum, Adam Brookins, Andy Johnson, Ryan Sadeghi, and Chuck Segelbaum
Commissioners absent:	Lauren Pockl, Rich Baker, Ari Prohofsky
Staff present:	Planning Manager Jason Zimmerman and City Planner Myles Campbell
Council Liaison present:	Gillian Rosenquist

2. Approval of Agenda

Chair Blum, asked for a motion to approve the agenda.
MOTION made by **Commissioner Brookins**, seconded by **Commissioner Johnson** to approve the agenda of February 24, 2020, as submitted and the motion carried unanimously.

3. Approval of Minutes

Chair Blum asked for a motion to approve the minutes from February 10, 2020.

MOTION made by **Commissioner Segelbaum**, seconded by **Commissioner Johnson** to approve the meeting minutes from February 10, 2020, as submitted, and the motion carried unanimously.

4. Informal Public Hearing – Major PUD Amendment

Applicant:	John Gabbert
Address:	1601 Noble Drive (Sweeny Lake Woods PUD No. 120)
Purpose:	To subdivide properties within an existing PUD and incorporate some portions of adjacent properties

Jason Zimmerman, Planning Manager, began the presentation with a recap that this request is to amend the existing Planned Unit Development (PUD) No. 120. The original PUD was approved in 2015 for three single-family lots on Sweeny Lake, all using a private drive. This proposal would expand the PUD boundary and reconfigure property lines to create additional buildable lots. Utilizing maps for visual clarity, **Zimmerman** stated differences between the existing and the proposed PUD.

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Existing

- 3 lots inside the PUD (1 with a home, 2 vacant)
- 4 lots outside the PUD (2 with homes, 2 vacant)

Proposed

- 4 lots inside the PUD (1 with a home, 3 vacant)
- 3 lots outside the PUD (2 with homes, 1 vacant)

Regarding community engagement, **Zimmerman** informed the Commission that a public meeting was held at City Hall in October 2019. This meeting addressed resident questions about lots, stormwater management, and the pending variance at the time for the private street. The Board of Zoning Appeals denied the variance request regarding the street but then was approved by City Council, following an appeal. This approval included a condition that sprinkler systems be installed for all new construction. **Zimmerman** listed the addresses of lots within and outside both the existing and proposed PUD; all lots are above the minimum lot size of 10,000 square feet.
Using environmental goals and water policies from the 2040 comprehensive plan as a guide, the engineering department did a full analysis of this PUD. A construction phasing plan, storm sewer construction plan, and a detailed tree/landscaping plan will continue to be developed.
When a PUD amendment is evaluated, it's done so against a list of criteria from the city. The original PUD met the criteria and the amendment does as well.

Zimmerman listed a number of next steps, such as review and approval from the Bassett Creek Watershed Management Commission, DNR, and City Council. Existing easements need to be vacated and new easements need to be dedicated.

Planning staff is recommending approval with the following conditions:

1. The plans dated February 13, 2020, are part of the approval
2. Existing easements are vacated and new easements dedicated as shown
3. City Attorney determines if a title review is necessary
4. Park dedication fee of $34,560 is paid
5. Deferred special assessment of $35,000 is paid
6. Conservation easement for 1640 Noble Drive is signed and recorded
7. Impervious surface area on each of the four undeveloped lots is limited to 10,000 sq ft

Commissioner Segelbaum asked why the Planning Commission isn't deciding on the subdivision in addition to the PUD. **Zimmerman** responded that the Commission is, however it's already wrapped up in the PUD approval. Even the lots outside of the PUD that are being subdivided are wrapped up in the PUD approval.

Representatives for the applicant and project approached the Commission.

Matt Pavek, Civil Engineer, working on the project

Jackie Day, Realtor, realtor for applicant

Pavek stated that staff presentation was thorough and from an engineering perspective, the plan is fairly straightforward. The most complicated part is the stormwater component but his team worked with city staff to create a low impact development plan.
Commissioner Johnson asked the representatives how they intend to mitigate construction noise and prevent wet basements for owners.
Pavek responded that there are construction best practices through the city and when pulling a permit, the builder shall adhere to that. Aside from that, it's a little far down the line and **Pavek** stated he couldn't speak much more to it at this time. **Day** added that the lots have not even been made marketable at this point but they'll be sold individually and then folks will build as they care to. Regarding stormwater, **Pavek** stated the groundwater levels are high in this area. New homes will be built above that level and will have drain tile. Swales and ponds will be placed below the groundwater level so water will flow away from existing properties.
Segelbaum asked the applicant why they're developing the property. **Day** responded that the property taxes are a part but the owner was waiting to sell to someone who would develop by enhancing what was present. **Pavek** added that two current owners were interested in splitting a plot and part of this amendment addresses that. The other lots needed to be reconfigured in order to have street access.

Chair Blum opened the public hearing portion at 7:25pm.

Ammar Al-Shash, 1807 Noble Drive, has three concerns:
1. Construction – There has not been neighboring construction but there is construction across the street. With this plan in place, Al-Shash stated he will have construction next to him as well as behind him.
2. Density – Al-Shash is concerned about the density and was behind the original PUD of three homes along the private road past his home. Adding a fourth lot now is concerning as they are being placed closer to him and further from the cul-de-sac at the end of the road.
3. Easement – Al-Shash objects to the overburdening of his easement with additional traffic.

Steve Maddox, 1604 St. Croix Circle, in general supports the amendment. Maddox is to the west of the filtration basin and his concerns are related to water flow and stagnant water.

Chair Blum closed the public hearing portion at 7:29pm.

Segelbaum asked staff to respond to the density concern with the original PUD planning for three lots and the amendment introducing four. **Zimmerman** responded with slides from the presentation and elaborated on the narrowness of those preliminary lots in addition to the setbacks. The same amount of land is utilized. **Blum** asked about the easement concern and measurements. **Zimmerman** responded that the easement came up when the variance was applied for, and the resident who spoke at the public hearing understood he had an easement over part of the road. After legal analysis, it was discovered that the easement allowed the 1807 resident to utilize the private road as

it's owned by the owner of the PUD. That means that the resident is granted access through that easement, the access is not under that resident's control.
Blum addressed the flow of water and the filtration basin. **Zimmerman** responded that the plans for the basin were approved by the city and are under review with the Bassett Creek Watershed. If there were an emergency water situation, the basin is set to flow in to the lake instead of backing up.
Segelbaum asked if the lots would meet requirements to possibly be subdivided one day.
Zimmerman stated that even though the lots were large, they likely wouldn't be able to be subdivided due to the frontage access and stormwater needs for that area.
Segelbaum stated that the density is shifting but it's not overly dense with the modifications, while another house is being added, the trade-off is greater water quality in the stormwater and thus Sweeny Lake. **Blum** echoed this approval.

MOTION made by **Commissioner Johnson**, seconded by **Commissioner Sadeghi** to recommend approval of the PUD Amendment 120 to subdivide properties within an existing PUD and incorporate some portions of adjacent properties. The motion carried unanimously.

5. Informal Public Hearing – Zoning Code Text Amendment
Applicant: City of Golden Valley
Purpose: Amending zoning districts to regulate tobacco sales

Myles Campbell, City Planner, started his presentation by recapping the February 10th meeting. After reviewing a number of scenarios, commissioners generally preferred a limited definition of youth-oriented facilities. This met the goal of mitigating youth tobacco exposure over a broader restriction based on a zoning category. Commissioners also wanted to preserve a good portion of eligible commercial land and specifically commercial land in the downtown area. **Campbell** reminded the group that the goal for tonight's public hearing is to come to a consensus on restrictions regarding tobacco retail establishments and to recommend ordinance language to the City Council for review and approval.
Campbell continued by summarizing two parallel sets of zoning language: one restricting tobacco retail establishments based on proximity to parcels zoned for assembly type uses, the other restricting them based on proximity to a defined set of youth-oriented facilities. **Campbell** followed with proposed language changes to city code, varying slightly depending on the determination of the commissioners. **Campbell** added that the zoning category of Assembly has yet to be adopted by the City Council. In the interim, the existing Institutional designations will need to be utilized until that code is amended to include Assembly as a zoning category. **Commissioner Segelbaum** asked for clarification on those items and where a community center is categorized, **staff** responded it falls under an I-3 zone.
Campbell displayed 6 scenarios maps, three buffer examples for each of the two options.

Staff recommends that commissioners adopt language based on mapped scenario E. This will define youth-oriented facilities and establish 750-foot buffer around any schools, playgrounds, and athletic fields, within which a tobacco retail establishment would be restricted from locating.

- Section 113-1 would be amended to include a definition of youth-oriented facilities

- Section 113-92 would be amended to add tobacco retail establishments as a restricted use subject to the following restrictions

Segelbaum asked why staff opted for specifically defining schools, playgrounds, and athletic fields and not categorizing it as areas of assembly. **Campbell** restated the items from his presentation regarding language and definition clarity. This direction was also advised from the City Attorney as an area of assembly encompasses more than just youth oriented facilities.

Commissioner Sadeghi asked for clarity on if a tobacco retailer was able to transfer a license to allow another retailer to utilize it in the event of a sale. **Campbell** responded that per the City Attorney, the license is non-transferable in a sale. **Segelbaum** asked what the tobacco retailers are that fall within the buffers and risk potential loss of license if they lapse or sell. Staff pointed out two gas stations, a tobacco retailer, and a pharmacy/convenience store.

Chair Blum asked the Commissioners if parks seemed like a youth oriented facility and **Segelbaum** pointed out that they are added in the scenario chosen. **Campbell** restated that parks with playgrounds and playing fields are included and reminded Commissioners that not including green space/natural parks was part of a previous conversation. **Blum** stated some preserve areas may not attract youth oriented activities but thinks Theodore Wirth Park should be under consideration for inclusion.
The conversation continued on to the types of activities that take place at Theo Wirth and if those activities are school or community sanctioned. The conversation also revolved around the definition of playground and athletic field, as well as how the trailhead at Theo Wirth is defined. A number of Commissioners expressed anecdotes of attending the nature park with families for activities. **Blum** added that because water is near Theo Wirth, it should be added to the amendment. **Segelbaum** stated he believes that Theo Wirth should be added but is against limiting tobacco licenses for current retailers. Specifically gas stations, if the owner sells and can't transfer a tobacco license, that will negatively impact the business.
Commissioner Johnson chimed in that this determination has already been made.

Campbell showed a map that was reviewed at a previous Commission meeting, and that scenario displays a buffer around Theodore Wirth. However, this scenario includes a buffer around Brookview Park and that buffer really impacts possible retailers in the downtown area. **Campbell** continued by referencing the conversation at the February 10th meeting when Commissioners decided to distinguish between nature parks and recreation parks. **Sadeghi** added he is concerned about creating a buffer that impacts gas stations and potentially prevents them from tobacco sales. **Segelbaum** asked if there was a way to include a buffer around Theo Wirth but not around Brookview. **Zimmerman** responded that there may be a way although this meeting was intended to be a public hearing. Taking that possibility under consideration would mean postponing the public hearing and reconfiguring scenario maps. **Blum** stated that he's comforted by the fact that buffers don't impact current businesses. He added that he's also comfortable including a buffer around Brookview. **Segelbaum** stated a preference for a 500 ft buffer and thus scenario D. **Campbell** asked for amendments or changes to the actual ordinance language.

Johnson stated that the group was just notified that the ComprehensivePplan they all worked on was approved. He reminded the Commissioners the portions they all worked on and what was designated to their Commission and then to other Commissions. **Johnson** went on to state that the group seemed to be struggling with a final decision because maybe health concerns aren't within their purview. He reminded the group that the tobacco retail requirements have already been determined and that their buffer zones won't help or hinder that process. **Commissioner Brookins** added that he doesn't care for the Commission's approach to this issue and should look at it the same way they looked at the 2040Ccomprehensive Plan. After more discussion about buffers and chain of events after a determination, **Zimmerman** reminded the group that the goal is to support the request of City Council.

Sadeghi suggested looking at where the group would like to see tobacco sales occur and then create a buffer zone around youth-oriented facilities to accommodate that. **Segelbaum** said that if the Commission can't come to a decision then they should provide the Council with what information they uncovered through this process. **Brookins** stated his desire to table a determination and to see a scenario where tobacco sales stay in Commercial districts 250 ft from state highways. He added that he thinks the desired outcome will stay the same. **Segelbaum** said they need to understand the parameters from council, the direction was to be from youth-oriented facility. **Campbell** reminded the group that an arbitrary ordinance can't be put in place, there needs to be a clear connection and justification. If the goal is to keep tobacco sales away from youth oriented spaces, then the ordinance needs to written with that clear connection.

<u>The scheduled Public Hearing was not called</u>

MOTION was made by **Commissioner Brookins** to table the conversation and await more information from staff and seconded by **Commissioner Johnson**.
The motion to table carried 4-1.
Aye: Sadeghi, Brookins, Blum, Johnson
Nay: Segelbaum

Television portion of the meeting concluded at 8:37pm

--Short Recess--

6. Council Liaison Report

Councilmember Rosenquist provided an update to Commissioners on various topics and discussions both at the City Council and throughout the City. She reminded Commissioners of the upcoming Joint Board, Commission, and Council Meeting later in the week. She also provided an update on new Board and Commission members of the City's Rising Tides Equity Taskforce, Human Rights Commission, and the Open Space and Recreation Commission.

7. Reports on Meetings of the Housing and Redevelopment Authority, City Council, Board of Zoning Appeals, and other meetings

Rosenquist updated Commissioners on a recent grant awarded to the City by the Department of Natural Resources and some of the upcoming work for the City's Housing and Redevelopment Authority surrounding an ongoing housing study of the City.

8. Other Business

Commissioners and staff reported no other business.

9. Adjournment

MOTION made by **Johnson**, seconded by **Blum** and the motion carried unanimously to adjourn the meeting at 8:50 PM.

Adam Brookins, Secretary

Amie Kolesar, Planning Assistant